

Report of City Solicitor

Report to Chief Planning Officer

Date: November 2014

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.14) 2014
(ADEL WILLOWS, OTLEY ROAD ADEL LEEDS 16)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Adel & Wharfedale	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

A Tree Preservation Order was made in respect of the above site on 28 July 2014 on a provisional basis.

Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the Order will expire if it has not been confirmed (whether or not subject to modification) within 6 months of the date of making.

Four objections to the Order have been received within the statutory objection period.

The Chief Planning Officer is requested to determine whether or not the Order should be confirmed or confirmed subject to modification in light of the objection.

Recommendation

That the objections be overruled and the Order be confirmed subject to a modified Order Plan for the purpose of removing the garden areas from the Order, together with the modification of the Description stated within the Schedule to the Order from "Mixed Species" to "Mixed Deciduous"

1 Purpose of this report

- 1.1 To set out the background to the making of the provisional Tree Preservation Order and to note the fact that all objections to the Order have been submitted to the Council.
- 1.2 To seek a determination from the Chief Planning Officer that the objection should be overruled in all the circumstances and that the Order be confirmed subject to the modifications referred to in this Report.

2 Background information

- 2.1 Further to the recent confirmation of a Tree Preservation Order (No.6) 2014 on Otley Road Adel the Local Planning Authority was contacted by a representative Adel Neighborhood Forum who was concerned that the trees in multiple ownership at Adel Willows had been omitted from that Order which they formed a prominent woodland shelterbelt. A request was, therefore made for these trees also to be protected, which was supported by a local ward member.
- 2.2 The Local Planning Authority was also contacted by the owner of one of the properties at Adel Willows, requesting that certain individual trees in his ownership be protected. He was advised that whilst the individual had limited amenity value, the collective trees at Adel Willows formed prominent Woodland. He was further advised that following requests to do so, it was intended to make a Woodland Order in respect of land at Adel Willows, to link up to the TPO at Centurion Fields and the woodland to the North protected by Order No.6 2014, known locally as "Beech Walk". The property owner was not supportive of this suggestion
- 2.3 Subsequently, the Ward Member involved contacted the department to check on the progress of the Adel Willows Order request and having been advised of opposition to a wider Order, requested that the making of the Order be delayed to allow further discussions to take place with interested parties.
- 2.4 These discussions did not lead to an agreement being reached to the satisfaction of all parties and in the circumstances a woodland TPO was served on 28th July 2014, in respect of the area of woodland in multiple ownership, originally identified by the Tree Officer on inspection as meriting protection in terms of public amenity.

3 Main issues

- 3.1 Objections to the Order were subsequently received from three affected landowners at Adel Willows and an interested land management company.
- 3.2 The grounds of objection have been considered by the relevant Tree Officer and for the reasons given in his comments it is considered that the Order should be confirmed subject to the modifications referred to in this Report.(See Appendix 1)

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Tree Preservation Orders are served on landowners on a provisional basis any other party holding an interest in the land other parties and adjoining landowners where any trees overhang their boundary.

4.1.2 A minimum statutory objection period of 28 days applies in respect of any Order made.

4.1.3 A consultation meeting was held with Councillor Anderson on 26th August to discuss the issue

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Human Rights. It is necessary to balance the rights of the landowners against the public interest in the protection of trees provided for by the statutory provisions. Local Planning Authorities have the powers to make Tree Preservation Orders if it appears to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area. In the present case the amenity of the trees is considered on balance to justify the making confirmation of a Tree Preservation Order and to outweigh the rights of the property owners to manage trees without local authority control.

4.3 Council policies and City Priorities

4.3.1 The work of the Sustainable Development Unit forms a vital element of the Vision For Leeds, City Priority Plan and Council Business Plan, the following two of which are relevant to are The aims of maintaining high quality buildings, places and green spaces, which are clean, looked after and respect the City's heritage and of enabling growth of the city whilst protecting its distinctive green character are promoted by the making of Tree Preservation Orders.

4.4 Resources and value for money

4.4.1 There are no resource implications.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Report is not subject to call in.

4.5.2 The Chief Planning Officer is authorised to take the decision whether to determine Tree Preservation Orders under Part 3 Section 2A of the Constitution (Council non-executive functions).

4.6 Risk Management

4.6.1 There are no specific risks involved.

5 Conclusions

- 5.1 The grounds of each objection have been considered by the Tree Officer and for the reasons given in his comments it is considered that the objections should be overruled.

6. Recommendation

That the Order be confirmed as originally served subject to a modified Order Plan for the purpose of removing the garden areas from the Order, together with the modification of the Description stated within the Schedule to the Order from “Mixed Species” to “Mixed Deciduous”.

7 Background documents¹

- 7.1 Tree Preservation Order (No.14) 2014 Plan.
- 7.2 E-mail objection dated 19 August 2014 and letters of objection dated 12, 26 and 28 August 2014 from individual objectors. **(Exempt under Access to Information Rule 10.4(2))**
- 7.3 The Tree Officer’s comments in respect of the objections.
- 7.4 Responses received to the Tree Officer’s comments from three of the objectors **(Exempt under Access to Information Rule 10.4(2))**.

¹ The background documents listed in this section are available to download from the Council’s website, unless they contain confidential or exempt information. The list of background documents does not include published works.